

Business Opportunity Disclosure Act

Utah Code § 13-15

A Guide For Sellers of Business Opportunities

Digital handbook published February 2023. The information presented is subject to change at any time, and may not fully describe your legal obligations. This handbook is not legal advice. For questions, call 801-530-6601 or email consumerprotection@utah.gov



UTAH DEPARTMENT
OF COMMERCE

Division of Consumer Protection

What is a “Business Opportunity”?

Statute is subject to change



When a person:

- 1. Sells or leases a product, equipment, supply, or service**
- 2. Receives payment of at least \$500 within 6 months**
- 3. For the purpose of enabling the buyer to start a business**



AND makes ANY of the following representations:

The seller guarantees that the buyer will make more from the business opportunity than it cost to purchase, and, if not, the seller will repurchase the opportunity from the buyer

The buyer will derive income from the business that exceeds the purchase price of the product, equipment, supply, or services

The seller provides locations for vending machines, amusement machines, or anything similar

The seller will purchase a product made by the buyer using products, equipment, or supplies purchased from the seller



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Franchises Under BODA

A person may not sell a franchise that will be located in Utah, or to a resident of Utah without first filing a notice with the Division of Consumer Protection stating that the franchisor is in compliance with **FTC rules.**

How does the statute define a franchise?

Any continuing, commercial relationship or arrangement, in which the terms of the offer or contract specify, or the franchise seller promises or represents, orally or in writing that:

1

The franchisee will obtain the right to operate a business that is identified or associated with the franchisor's trademark, or to offer, sell, or distribute goods, services, or commodities that are identified or associated with the franchisor's trademark;

2

The franchisor will exert or has authority to exert a significant degree of control over the franchisee's method of operation, or provide significant assistance in the franchisee's method of operations; and

3

As a condition of obtaining or commencing operation of the franchise, the franchisee makes a required payment or commits to make a required payment to the franchisor or its affiliate.



BODA & Consumer Complaints

Statute is subject to change



Though the Division of Consumer Protection does not typically discuss consumer complaints unless a legal action is taken, BODA rules make some exceptions:

If a consumer alleges a loss of \$3,500 or more

and/or

is one of at least 50 complaints filed with the Division against the same person,

those complaints will be available for public record



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What You Need to File With DCP

Business Opportunity Sellers

\$200 Filing Fee

Franchises

\$100 Filing Fee

Proofs of Disclosure and Notice must be filed
Annually with the
Division of Consumer Protection



How to Obtain a Proof of Disclosure Receipt (BODA)

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The statement includes identifying information for owners and managers of the business, a financial statement, and information about the business opportunity being sold.

Pay a \$200 filing fee



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Disclosure Cover Sheet Details

Business Opportunity Disclosures must include a cover letter attached to the front in at least 12-point upper- and lower-case boldface type with the following information and scripts:

Name of the applicant

Date the applicant files the disclosure

“INFORMATION FOR THE PURCHASE OF A BUSINESS OPPORTUNITY: To protect you, the State of Utah has required your seller to give you this disclosure statement. The State of Utah has not verified the accuracy of the information in the disclosure statement.”

“CAUTION

The number of purchasers who have earned through this business opportunity an amount in excess of the amount the purchaser pays for the business opportunity is at least _____ which represents at least _____% of the total number of purchasers of this business opportunity.”



How to Get a Proof of Notice Receipt (Franchise)

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The franchisor is in compliance with the requirements laid out in the Federal Trade Commission Rule concerning [Disclosure Requirements and Prohibitions Concerning Franchising](#)

The name of the applicant

The name of the franchise

The name under which the applicant intends to transact business, if different

The address of applicant's principal place of business

The applicant's state-issued or government issued business entity number

Pay a \$100 filing fee